

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JESSE H. NICHOLSON, JR.,)	
)	
Petitioner,)	
)	
v.)	Civil Action NO. 05-732-SLR
)	
THOMAS CARROLL,)	
Warden, and CARL C.)	
DANBERG, Attorney)	
General of the State of)	
Delaware,)	
)	
Respondents.)	

O R D E R

At Wilmington this 13th day of January, 2005, the petition of Jesse H. Nicholson, Jr. for a Writ of Habeas Corpus having been reviewed pursuant to 28 U.S.C. § 2254, Rule 4, and noting that petitioner did not file his AEDPA election form as ordered by the court;

IT IS HEREBY ORDERED that:

1. Pursuant to 28 U.S.C. § 2254, Rules 3(b) and 4, the clerk shall forthwith serve by certified mail a copy of the petition (D.I. 2), the order dated November 7, 2005 (D.I. 3), and this order upon: (1) the above-named Warden of the facility in which petitioner is housed; and (2) the Attorney General of the State of Delaware.

2. Within **forty-five (45)** days of receipt of the petition and this order, in accordance with 28 U.S.C. § 2254, Rule 5, respondents

shall:

a. State whether the petitioner has exhausted his state remedies including any post-conviction remedies available to him under the statutes or procedural rules of the State and including also his right of appeal both from the judgment of conviction and from any adverse judgment or order in the post-conviction proceeding;

b. State whether any claim in the petition is barred by a procedural bar, non-retroactivity, or the statute of limitations;

c. Respond to the allegations of the petition;

d. Indicate what transcripts (of pretrial, trial, sentencing, and post-conviction proceedings) are available, when they can be furnished, and also what proceedings have been recorded and not transcribed;

e. Attach to the answer certified copies of such portions of the transcripts as may be material to the questions raised in the petition, as well as certified copies of the petitioner's brief(s) on appeal (direct and/or post-conviction) and of the opinion(s) of the appellate court, if any.

3. The clerk shall mail a copy of this order forthwith to the petitioner.


UNITED STATES DISTRICT JUDGE